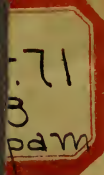


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DONGAN'S CHARTER OF THE CITY OF NEW YORK.

Read before the United States Catholic Historical Society
by John Gilmary Shea.

There is a subject which the Executive Council considered too important not to be commemorated by at best a brief mention in a meeting of a Society devoted by its very charter to preserve and make known all that relates to the history of Catholics in this country.

The act is that by which on April, 1686, New York was raised to the rank of a city, endowed with property and franchises. It was the act of a Catholic Governor acting in the name and by authority of a Catholic Lord Proprietor, who after making New York English and the keystone of a great colonial system that was to secure to our tongue the preponderance on this continent, had ascended the throne of England, the first and only Catholic to rule there during the last three hundred years.

"The Dongan Charter" is a theme that we hoped to have treated here by the Irish Catholic Mayor of New York, as some remarks would come appositely from his lips, filling as he does the Chief magistracy of a city chartered two centuries ago by an Irish Catholic Governor.

I regret that the topic does not fall to better hands than mine, and as I too can plead ill health, I beg your indulgence.

Some years ago, a high city official listening to an important debate in the Chamber or argument in Court heard

constant reference to the Dongan Charter. At last he leaned over to some other official near him and asked in a whisper ; "What *is* the Dongan Charter ?" His friend's blank visage did not require even the movement of his head to show his ignorance. An appeal to another City worthy resulted in no more satisfactory elucidation of the problem, and the high official resigned himself to the prevailing ignorance. But the allusions to "Dongan's Charter" became too much for human nature. He rushed out of the City Hall, secured a carriage on Broadway and ordered the coachman to drive at once to the New York Historical Society. Alighting, he mounted the stairs, and the staircase of that venerable institution was not planned with an eye to the comfort of well fed city officials and entering the Library asked of the Custodian of books, his great conundrum ; "What is the Dongan Charter.?" The answer came promptly: it was the charter making New York a city and giving it extensive rights, granted April 22d, 1686 in the name of James II King of Great Britain and Ireland by Colonel Thomas Dongan, an Irish Catholic Gentleman, then Governor of the province of New York. But where is this great document. !" was the next question. "The original in several large sheets of parchment with its seals is preserved in the office of the Comptroller." "What down in the Park ?" "Undoubtedly." "And where can I see a copy ?" "More or less correctly in the City Charter, in many collections of Laws relating to the City and in many of Valentine's Common Council Manuals."

After examining a copy he hurried back, and studying it at leisure set up as a pundit in regard to "Dongan's Charter."

In the remarks about to be presented, I am far from implying in my audience any such ignorance as to the Dongan Charter, or the Governor who granted it, or of the reign and the times in which he lived. Much less do I pretend to give a full or comprehensive account, for it would require a volume to present real facts and sweep away accumulated dust and cobwebs that have long passed for history.

The elevation of New York to the rank of a city was

only one of a series of wisely planned and ably guided acts looking to the future well being and greatness of America. It was important not to the city only and the colony of New York, but to the English empire in America, which the house of Brunswick subsequently received, but lacked statesmanship and honesty enough to retain. The Guelphs lost and lost dearly what the Stuarts consolidated and secured. This to some may be viewing history from a new standpoint, but it is a correct view.

Any one who passes rapidly in mind over the list of English monarchs whose rule extended to this country, will see little interest displayed by any of them in its actual or future prosperity. Elizabeth gave grants, James did the same and wrote a book to injure tobacco, the great staple of Virginia; Charles I made land concessions, but that was all. Cromwell did nothing but involve Maryland and Virginia in strife and confusion. Pleasure loving Charles II of his own impulse would have done as little for America as any of his predecessors; but his brother James was a man of different stamp. Eminently a man of action and administrative ability, James, Duke of York, applied himself during his exile to acquire military experience and saw service under the best general of his time. After the restoration he was made Lord High Admiral of England, and he set to work to increase the efficiency of the British navy. The rules drawn up by him were so wise, so thorough and so practical that they were maintained till our time, and the Nelsons, the Rodneyes and the Hoodes, the men who made England mistress of the seas, were trained under the system introduced by James, whom venal or careless historians persist in holding up to us as a shallow, bigoted man.

In France he had learned from the numerous books printed on Canada and Acadia, the extent of the French empire in America, and saw how the indifference of the English government was periling not only the future sway of our continent, but the very existence of the two neglected groups of colonies, Virginia and Maryland at the south, and New England at the north, colonies possessing no common

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bond or tie, colonies not homogeneous in government, religion or policy.

Reviving an old English claim, James solicited from his brother a grant of the territory colonized by the Dutch and that was wrested by them from the Swedes. As head of the navy he sent over the vessels and force necessary to take possession. New Netherland disappeared from the map, and New York, a new English colony became the connecting link between New England and Maryland, and as his grant included Maine, the British flag floated from the Penobscot to Cape Fear, over a series of colonies in unbroken line. We see his influence too in the grant of the Carolinas to a number of noblemen, completing the occupation of the coast and confronting the French in Acadia at the north, and the Spaniards in Florida at the south.

That the credit is due to James and not to any settled policy of English statesmen is evident, from the fact that this plan had no precedent, and that for nearly half a century after the fall of James not a step was taken to extend the limits of the British coast line his genius had secured.

To develop the province he had himself acquired James transferred the country between the Hudson and Delaware to others who soon peopled New Jersey. His friend William Penn, interested in that colony, soon became Proprietor of Pennsylvania, as all know, by the aid and support of James. In New York he established English laws, introduced English settlers and developed the resources of the province. There he established liberty of conscience. Bancroft says that "no glimpse of it reached James," and that he was "an advocate of toleration without a sense of the natural right to freedom of conscience," but that James was in the full sunshine instead of getting a mere glimpse is proved by his acts. He established religious freedom in New York and lost his throne for endeavoring to establish toleration in England.

Let me quote a more impartial writer, one not biased by hereditary New England hate of James, never forgiven for his endeavor to bring that part of America into harmony with the British constitution,

"Determined to give his American province the franchises its people desired, the Duke of York sought an able colonial governor to take the place of Andros * * * * The man chosen by James was Colonel Thomas Dongan, born in 1634, a younger son of an Irish baronet, Sir John Dongan, and a nephew of Richard Talbot, afterward created Earl and Duke of Tyrconnel in Ireland. Thomas Dongan, of course, gained advancement by his brother's and his uncle's influence at the English court. Dongan was quickly promoted to be a colonel in the royal army, and having been assigned to serve with his Irish regiment under Louis was stationed for some time at Nancy. In 1678 he was ordered home from France, to his pecuniary loss; but was rewarded by Charles with a pension and the appointment of Lieutenant Governor of Tangier, in Africa, under Lord Inchiquin, whence he was recalled in 1680. Dongan was a Roman Catholic, enterprising and active; coveting money, yet "a man of integrity, moderation and genteel manners." His experience in France was an important recommendation, because of the delicate relations between New York and Canada, and the necessity of managing them skilfully on the English side. Dongan was accordingly appointed governor of New York."

Such is the language of John Romeyn Brodhead, historian of our State, a scholar and man of thought, with no bias in favor of an Irishman or a Catholic.

Several new officers came over with Dongan. "The Rev. Doctor John Gordon was also commissioned to be chaplain of the soldiers in New York. An English Jesuit priest, Thomas Harvey, of London, likewise accompanied Dongan, who embarked for America in the old Parliamentary frigate 'Constant Warwick.' With a considerable retinue Dongan arrived at Nantasket, and set out for New York overland, accompanied some ten miles to Dedham, by a troop of Boston militia, besides several other gents of the town." Brodhead "History of the State of New York, ii pp. 370-375. This was in August, 1683.

About two weeks after his arrival on this island, Dongan summoned the first assembly of the province of New York.

When James became proprietor, such a step with a people ignorant of British laws and government, would have been useless. To give the power to the handful of English who came over, would have been to make a petty minority govern the majority. New York had in twenty years however developed and James who wished the people to be governed impartially now established a form of government in which he aimed to give the legislation to the free-holders, securing on their part a loyal dependence on the British crown, wiser in his generation than the Georges in the next century.

On the 17th. of October. 1684. the seventeen delegates to the first New York Colonial assembly met with the Governor and Council in Fort James, the English fort between the Bowling-green and the bay. The first and grandest of its acts was "The Charter of Liberties and Priviledges," securing the rights of British subjects and establishing entire freedom of conscience and religion to all peaceable persons which profess faith in God by Jesus Christ."

Thus is Dongan's name linked with an act and a day memorable in the annals of New York.

But this is not his only claim to a place in history. He at once took a firm stand for New York Colony and its rights. While Thomas Dongan was Governor of New York no infringement on its territorial or other rights, be it from the French in Canada, the over reaching men of New England or the Proprietor of Pennsylvania or the Governors of Maryland and Virginia would be brooked.

He was the bold, skilful, polished but determined upholder of the rights of New York. He was a splendid exponent of state rights.

Towards the French he presented a firm front. The noble missions of the Jesuits among the Five Nations had, as a Catholic, Dongan's warmest sympathy, but France could not make their pious labors the ground of a territorial claim. The territory of the Iroquois was within the limits of New York, and New York would not recognize any claim to a single foot of land in their occupation. He upheld the line of the great lakes as the natural border, and strove to keep

the French from any foothold below that line. Seeing the importance of Detroit, he endeavored to occupy it as a key to the West. If the line of the lakes is now the northern boundary of the United States, we owe it to James II and his able lieutenant Thomas Dongan.

Maryland and Virginia had grounds of complaint against the Five Nations. They sought to negotiate with that wonderful confederacy. Dongan put his foot down. They are New York Indians. You can negotiate with them only in my presence and by my sanction. Lord Howard of Effingham came from Virginia to make terms with the Indians under the eye of the Catholic Colonel. His negotiation gave for all-time to the Virginians an Iroquois name. The Dutch interpreter wishing to convey to the Mohawks the meaning of Howard, took the nearest Dutch word he could find, one meaning a hanger or short-sword. This to the Indians was big-knife, and they called the Governor of Virginia Assarigoa, Big-Knife; and that henceforward became the name for Virginians. Dongan's claim over the Five Nations endures to this day. When the Federal Government was formed, it attempted to pour its legion of Indian agents, contract schemers, and plunderers on the Indians in New York State, especially the Five Nations. Governor Clinton took his stand on Dongan's strong position. "The Six Nations are New York Indians. We tolerate no interference from the general government," and this attitude has been maintained.

Towards New England Dongan was equally firm. In the whole line of Colonial Governors there is not one who can be ranked higher than Colonel Thomas Dongan. Brodhead, indeed, accuses him of love of money, but more money was freely voted to him than future governors could wring by flattery or force. And Dongan freely spent the money in the public service. He left office with arrears of salary due him and large amounts advanced from his purse for public needs.

Among the memorable acts of his administration was that of granting a Charter to the City of New York in the name of the King.

New York had enjoyed a kind of vague existence as a

city. It had the name without the substance. It had no powers that courts would be bound to recognize.

To place the rights of the city on a firm basis, Dongan in April, 1686, in the name and certainly not without the sanction of King James II, issued a Charter in the name of James as King of England, Scotland, France and Ireland, and also as Supreme Lord and Proprietor of the Colony and Province of New York. It recognized New York as an ancient city confirmed all its rights whether by prescription or by any grant, formal or informal, from the States General or himself, or governors acting in their name.

Technically a city requires a bishop, but we were not ready just then to begin our line of bishops. In fact we had to wait sometime.

All lands granted to the city, the public buildings erected, the streets, ferries and all privileges, franchises, rights, royalties, free customs, jurisdictions and immunities exercised by the city were declared to be irrevocably vested in the Mayor, Aldermen and Commonalty of the City of New York. Still more important perhaps was the grant to the City of all waste, vacant, unpatented and unappropriated lands on the island, with all rivers, rivulets, coves, creeks, ponds, waters and water-courses, all land around the city down to low water mark with power to fill in and reclaim.

New York was to have a Mayor, six aldermen and as many assistants, a town clerk, a chamberlain, a sheriff, a coroner, a clerk of the market, a high constable and a marshal. Nicholas Bayard was appointed the first Mayor, and of the six Aldermen two bear English and four Dutch names.

The Corporation thus created received power to regulate trade, markets and fairs, to open new streets and ferries, and to pass ordinances for the government of the city.

The Mayor with the Recorder or some of the Aldermen was to preside in a Court of Common Pleas, and hold a criminal court for the trial of offenders.

Such were the principal topics of this Charter which

declares at its close "that such and no other construction shall be made thereof, than that which may tend most to advantage religion, justice and the public good; and to suppress all acts and contrivances to be invented, or put in use contrary thereunto."

That New York prospered under the Dongan Charter is seen by the tenacity with which the citizens clung to it. When further powers were sought and a new charter issued under Governor Montgomerie in 1730, care was taken to recite the Dongan Charter at full length and confirm it. That was the corner stone.

The able governor Dongan held his office till James in 1688 united the province of New York to New England, and placed all under the administration of Sir Edmund Andros.

Then Governor Dongan retired to his own estate, in the colony. He had acquired lands on Staten Island and Long Island; and had brought over two of his kinsmen, apparently intending to make New York his home and establish the Dongan family here. The fall of James II left New York in confusion. A wild German fanatic, Leisler, seized the reins of government in New York. Left by William III's indifference and neglect to do his will he launched the New York Indians on the French in Canada, and committed a frightful massacre at Lachine, compelling the French on their side to use Indians in war, as they did with fearful effect on New England and New York for many a day.

Dongan had taken no part in favor of the fallen monarch, but Leisler hunted him like a wolf, and the best governor New York had had was glad at last to escape to Rhode Island, and sail to England from the port of Boston where he had been so honorably received.

He reached England to find a foreigner on the throne, his brother the Earl of Limerick in exile, the property of the family confiscated. His own accounts as Governor had never been settled, and New York owed him heavy arrears. He petitioned in vain for the repayment of moneys which he had with public spirit advanced, and for arrears due him. It was not till after long delay that a pittance reached Dongan,

a poor reward for long and able services to create a British Empire in America.

When his brother died and the Earldom of Limerick devolved upon him, he sought at least a portion of the immense estates in Ireland which had been confiscated, but the same niggardly policy prevailed.

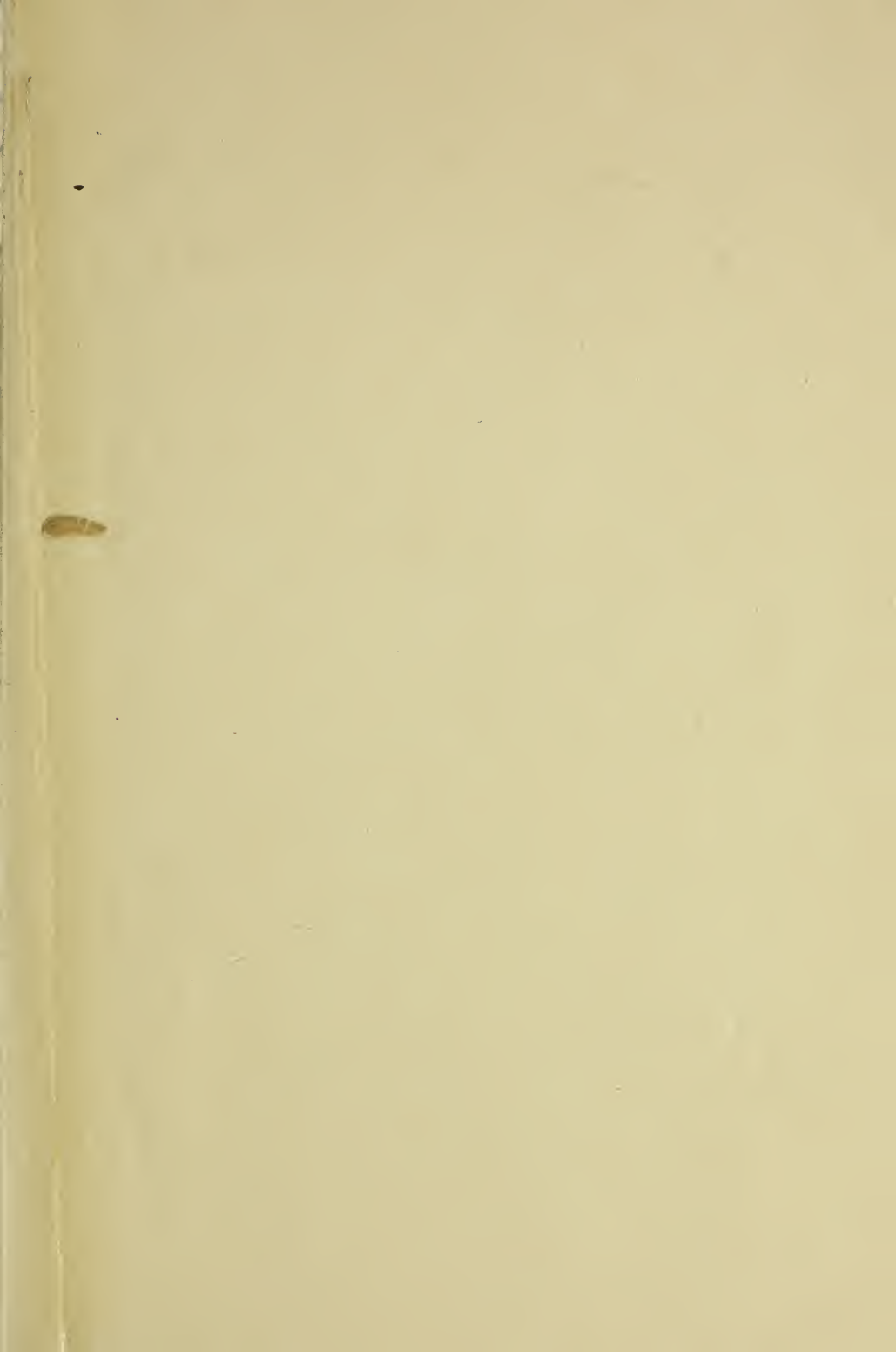
The great governor of New York, Thomas Dongan, Earl of Limerick, died at last in the obscurity of poverty at London, and was interred in Saint Pancras' Churchyard, the chosen place of repose of Catholics of rank.

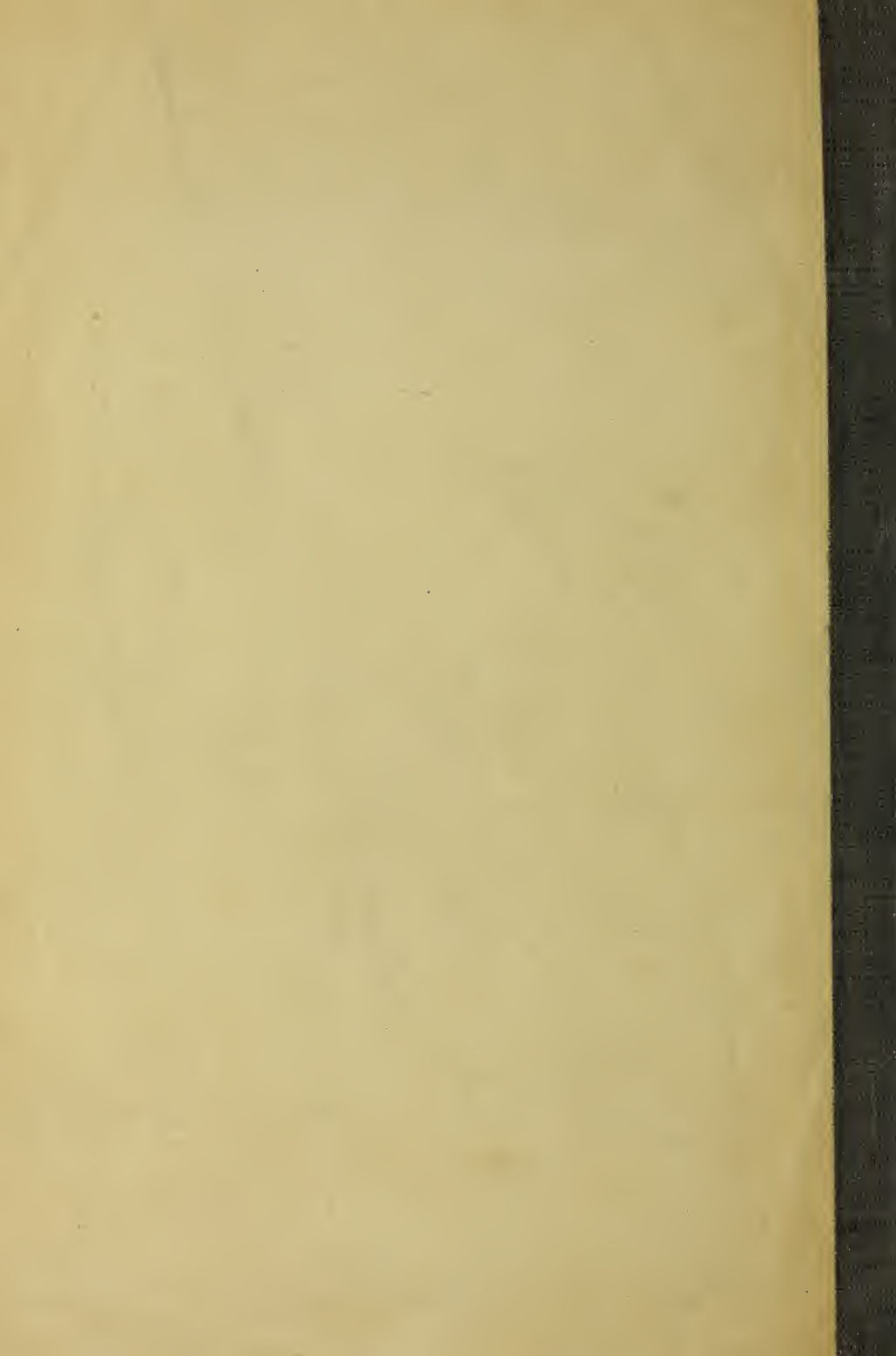
The Charter is still preserved intact in the office of the Comptroller of the city, but may easily be marred or destroyed. It is one of the oldest and most interesting documents relating to the city and its rights, and yet one gentleman seeking to consult it, found it used as a foot-rest by a clerk.

In the hope of being able to show the original Charter to the members of the Society, I applied to the Hon. W. Low, to permit it to be brought here this evening in custody of one of the officers of his department, Walter Dongan, a descendent of the great governor, being now one. He received our application with great courtesy, but expressed his regret that he could not allow it to be removed from his office except under a subpoena from a court of justice.

We are not prepared just yet to involve ourselves in litigation, even with a skilful lawyer for our president; but I question whether the comptroller has any right to the custody of the Dongan Charter. He is not one of the ancient officers created by the charter, while the chamberlain is: but there seems no authority for any financial officer to hold the charters and rolls of the city, to be its "Custos Rotulorum."

When it was issued Dongan's Charter was surely committed to the custody of the Mayor, Nicholas Bayard, and the Clerk, John West. It would seem therefore that the clerk is the proper holder of the same and responsible for its safe keeping.





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